

REMARKS

These remarks follow the order of the Office Action beginning at page 2.

Claim Rejections - 35 USC § 112

Claim 5 has been amended to refer to the "Fresh-Elegant" relationship on the longitudinal axis. This relationship is taught in Applicant's Figure 11 as well as Figure 10.

Claim Rejections - 35 USC § 112(second paragraph)

The Examiner has stated "it is not clear how the computer graphic methods obtain an average space composition through a survey." Applicant has made it clear in the amendment of claim 1 that the average is obtained by a survey of facial features of a plurality of people. The computer graphic methods can be any graphic method known in the computer art. In order to make this point perfectly clear, Applicant has now added a new claim 6 which specifies that the computer graphic method may be that known as morphing technology. This is disclosed in the specification at page 4. It is respectfully submitted that Applicant is not required to narrow the claim to the specific embodiment of a computer program which is the enabling portion of the disclosure. Therefore, although Applicant has amended the claim, Applicant traverses any rejection that some specific computer graphic program must be claimed.

With respect to MPEP § 217201, the Examiner has not made it clear how this relates to the rejection. MPEP § 217201 refers to omission of matter disclosed to be essential to the invention in both paragraphs. This is matter found in Applicant's specification. Applicant has indeed claimed a computer program, but claimed it broadly.

The Examiner has stated "it is not clear how an average face is obtained and what the link is between enquiries and opinions". First, it should be noted that the average face relates to the survey of facial features and that this survey is conducted of a plurality of people, see applicant's specification describing Figure 1 at page 4. This clause does not relate to the enquiries and opinions which are found in clause 2. The enquiries and opinions relate to collecting of data for color maps and color images. Here it should be noted that the Examiner has failed to note that the enquiries are related to maps and images, not the average face.

Although the matter will be discussed infra with respect to the prior art, the Examiner should note that the prior art relied upon does not even disclose any method whatsoever of analyzing opinions and use of this data for color maps and image maps. Finally, the prior art, as will be explained, simply does not teach how it's "programmed color palates" are obtained and how they relate to natural skin.

Claim Rejections - 35 USC § 103

This invention is for a method of selecting suitable cosmetics based on color information. A colorimetry study is conducted for many people with different skin colors. A color information map is then created and analyzed for selecting suitable cosmetics. The analyzation in Applicant's invention takes into account skin of various races which are surveyed. On the other hand, traditional methods consider only the skin of limited populations and are, therefore surveyed differently.

Analyzation for a limited population, for example, a color information only limited to Japanese skin is totally different from Applicant's invention. The significance of Applicant's invention is to provide a method for selecting suitable makeup by analyzing various races, and which will not be influenced among races.

The rejection of claim 1 as being unpatentable over Rigg '284 under 35 USC § 103 is respectfully traversed. The Examiner in paragraph 6 (A) (a) cites a digital camera. Applicant does not study just one person's face. Applicant studies a plurality of persons and obtains average features as set forth in the first paragraph of claim 1.

In paragraph 6 (A) (b) the Examiner refers to calculating color parameters on two or more areas. Applicant simply does not do this. Applicant collects color data based upon the plurality of enquiries among different races of people to receive opinions of those people. Applicant does not measure color, or analyze color as does Rigg.

With respect to 6 (A) (c) Applicant displays on a monitor an image of a face as does Rigg. Rigg displays the face of the customer. Applicant does not display the customer at all. This point is not even claimed.

In paragraph 6 (A) (d) the Examiner asserts that there is a predetermined palate of colors appropriate to calculated skin color. In Rigg, however, there is no teaching of how this predetermined palate of colors is determined. On the other hand, this is precisely what Applicant's claim is directed to. Namely, a method for obtaining information relating to colors and desirable image.

6 (A) (e) Applicant does not accept feed back from a customer.

6 (A) (f) Applicant performs enquiries to obtain data in order to understand color information relating to desirable colors.

With respect to 6 (A) (g) Applicant does not display the facial image (of the customer) with the predetermined color palate as the Examiner asserts. This rejection is not related to the claim.

Applicant agrees that Rigg is silent on the plurality of races, still further, Applicant asserts that Rigg is silent on a survey of facial features, enquiries among the plurality of different races for the average face, and the resulting analysis steps claimed by Applicant. The Examiner in the statement of the rejection has not explained at all how one of ordinary skill in the art can take the teachings of Rigg and arrive at Applicant's claimed invention. The Examiner concludes that the skilled artisan

would have found this an obvious modification within Rigg with the motivation of allowing selection of the best color combinations for each individual. The problem is that Rigg never teaches how to arrive at his palate in the first instance. Therefore, there is no suggestion of Applicant's claimed invention.

Claim 5

Rigg, as noted by the Examiner, does not use charts or the displays that are anything close to Applicant's teachings or claims. Rigg is directed to showing the customer how different colors respond, however, Rigg does not teach which colors for different races are most effective in bringing out the desirable features of that race.

Finally, the terms "Active-Gentle" and "Fresh-Elegant" simply are not in Rigg because Rigg does not have such considerations. These would be subjective determinations by the customer, and not part of a mapping scheme as claimed by Applicant.

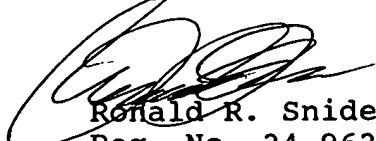
Claim 4

In the rejection of claim 4, the Examiner has not explained how Utsugi can possibly teach a horizontal axis and longitudinal axis showing tones as claimed. In '583, the axes relate to the axes of the face and simply do not relate to selection of the color maps as taught by Applicant. Here the Examiner should specifically refer to the color maps shown in Applicant's Figures 10 and 11. Note, Figures 10 and 11 do not have faces.

The Examiner has not at all explained how one of ordinary skill in the art would combine the two references to arrive at the color relationships taught by Applicant in the color maps which are specific to different races.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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